IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.128 OF 2005

Mrs.Sarita Jaiprakash Singh ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. R.D.Suryawanshi for the Applicant.
Ms M.M.Deshmukh, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : AUGUST 04, 2005.

P.C.:

1. Heard Counsel appearing for the parties. The Applicant applied under section 457 of the Code of Criminal Procedure, 1973 for custody of the godown which was in possession of the Respondent No.2-accused. The said Application has been rejected by the learned Magistrate by the impugned Judgment and order. The learned Magistrate held that the Applicant is not entitled to possession of the godown. The learned Magistrate noted the case made out by the Respondent No.2 that the Respondent No.2 was in possession of the godown as a tenant. While dismissing the Revision Application filed by the Applicant, the learned Additional Sessions Judge held that the Applicant was not in possession of the godown at the relevant time and therefore, possession cannot be restored to the Petitioner.

2. After having heard the Counsel appearing for the parties, I find no error in the impugned judgments and orders. Even in the Application under section 457 of the Code of Criminal Procedure, 1973 made by the

Petitioner, a contention was raised that Petitioner inducted in the godown the Respondent No.2 as a licensee in month of December 2002 for a period of one month.

3. The Trial Cout is right in holding that the question whether the Petitioner is entitled to the possession or not will have to be decided by the appropriate court and not by the court of Magistrate. There is no merit in the Petition and the same is rejected.

JUDGE